

**REGULAR**

**NUMBER:** 120.42

**TITLE:** AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTIONS 6.05, 6.09, 6.10, 6.11, 6.13, 6.14, 6.15, 6.16 AND 6.17, CHAPTER 1, TITLE VIII OF THE MILPITAS MUNICIPAL CODE, RELATING TO CONSTRUCTION WATER, TIME FOR PAYMENT, DISCONTINUANCE OF SERVICE, RESTORATION OF DISCONTINUED SERVICE, QUANTITY CHARGES, BIMONTHLY WATER METER CHARGES, FIRE SERVICE CHARGES, EFFECTIVE DATE OF WATER RATES AND METER MAINTENANCE RESPECTIVELY.

**HISTORY:** This ordinance was introduced at a meeting of the City Council of the City of Milpitas on May 4, 2004, by motion of Councilmember \_\_\_\_\_, and was adopted at a meeting of said Council on \_\_\_\_\_, upon motion of Councilmember \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Gail Blalock, City Clerk

\_\_\_\_\_  
Jose Esteves, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Steven T. Mattas, City Attorney

**ORDAINING CLAUSE:**

**THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:**

**Section 1. Amendment to Section VII-1-6.05 .** Title VIII, Chapter 1, Section 6.05 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.05 Construction Water**

Construction shall be considered to be of two types (a) general construction, which includes all construction other than structural, and (b) structural construction which includes construction of all types of structures. All construction water use shall be metered.

6.05-1 General construction: The contractor or other user shall deposit \$100 with the City, and shall receive a written permit to draw such water from a designated source. The user shall report to the City the amount of water used which will be charged for at the rate of 50¢ per 100 cubic feet. At the conclusion of the construction use, the user's deposit will be returned, less the charge for water used. If the source of construction water is a fire hydrant or hydrants, user will be required to deposit an addition \$10, for which he will be issued the necessary wrench for operating the hydrant, which deposit will be returned upon return of the wrench. The City may, at its discretion, require a larger general construction water deposit, or may require the deposit to be increased from time to time. The City may, at its discretion, issue a temporary meter and charge according to meter rates. In such case, the deposit shall be as fixed by the City. If a user desires general construction water service and does not wish to install a permanent water meter in accordance with subsection 6.05-2, the user shall be required to complete a permit application and deposit \$2,000 with the City. If the anticipated water usage from the construction or the value of the water meter warrants it, the City may require a general construction water deposit in excess of \$2,000. Upon receipt of the completed application and deposit, the City shall issue a general water construction permit and provide the user with a temporary meter to draw such water from city hydrants. Permits shall be granted for a period not to exceed six months with one six-month extension granted by the City upon request. If the source of construction water is a fire hydrant, an approved spanner wrench shall be used for operating the hydrant. General construction water service will be charged at the commercial water quantity rate with fixed charges as designated in Sections 6.13 and 6.14. The user shall maintain a copy of the temporary meter permit at the site when using the meter. At the conclusion of the permit period, the user shall return the meter and report the amount of water used. The City will calculate the charges and return any amounts remaining from the deposit. If a permit in excess of one year is required, a new permit is required, and the meter must be returned for inspection prior to issuance of the new permit. If a meter is damaged, destroyed, or lost, the entire deposit shall be forfeited. Use of temporary meters not issued by the City of Milpitas is prohibited.

6.05-2 6.05-2 Structural construction: The contractor or other constructor shall pay the sum of \$5 per structure for unmetered water to be used in connection with construction. This rate is based on the ordinary dwelling house. The City reserves the right to make increased charges for large structures or those requiring an unusual amount of water in construction. Prior to receiving structural construction water service, the user shall open a utility account with the City, arrange for installation of the permanent water meter, and pay charges in accordance with Sections 6.13 and 6.14. (Ord. 120 (part), 9/1/64.

**Section 2. Amendment to Section VIII-1-6.09.** Title VIII, Chapter 1, Section 6.09 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.09 Time for Payment**

All accounts are due and payable within fifteen (15) days of the date of the bill. Accounts shall become delinquent and a late fee equal to five percent of the amount due shall be imposed if payment has not been received by 5:00 p.m. on the due date. All bills are due upon presentation and shall be considered delinquent fifteen (15) days after presentation, or mailing to the customer at his address on the City records.

**Section 3. Amendment to Section VIII-1-6.10.** Title VIII, Chapter 1, Section 6.10 of the Milpitas Municipal Code is hereby amended to read as follow:

**VIII-1-6.10 Discontinuance of Service**

Service may be discontinued for any infraction of City rules or regulations and shall be discontinued for any account which is more than thirty (30) days delinquent. Prior to discontinuing service for delinquent accounts, a final notice shall be issued to delinquent accounts and payment shall be due within fifteen (15) days of the date of the final notice. If payment has not been received by 5:00 p.m. of the due date of the final notice, an additional late fee equal to five percent of the amount then due shall be imposed, and a twenty-four (24) hour warning notice shall be placed on an exterior door of the building where service is provided and for which payments are delinquent. If the City posts a warning notice, an additional service charge of ten dollars (\$10) shall be imposed on the delinquent account.

Said warning notice shall state that water service will be discontinued if payment of the delinquent account is not received by 5:00 p.m. of the due date indicated on the warning notice. If payment has not been received by 5:00 p.m. of the due date on the warning notice, water service shall be discontinued. Where service is discontinued for non-payment of bill, written notice shall be mailed at least ten (10) days in advance of such discontinuance to the person in whose name the account is maintained. Final notice of discontinuance shall be posted in a conspicuous place upon the property at least twenty-four (24) hours before service is actually discontinued. A Five Dollar (\$5.00) service charge is imposed upon the customer at the time of posting of final notice which must be paid as a condition precedent to restoration of service.

**Section 4. Amendment of Section VIII-1-6.11.** Title VIII, Chapter 1, Section 6.11 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.11 Restoration of Discontinued Service**

Restoration of service which has been discontinued for non-payment of a bill may be had by payment of all outstanding charges to date plus a Five Dollar (\$5.00) fifty-dollar (\$50.00) service charge, at the offices of City. If restoration is requested outside of normal business hours, an additional service charge of twenty-five dollars (\$25) shall be imposed. Restoration of service which has been discontinued for any other infraction of a rule may be had by presentation of evidence of compliance and payment of a Five Dollar-fifty-dollar (\$50.00) service charge at the offices of the City. The City Manager shall have authority to vary the strict application of this rule where he deems it necessary for the good of the City or to prevent undue hardship.

**Section 5. Amendment to Section VIII-1-6.13.** Title VIII, Chapter 1, Section 6.13 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.13****Quantity Charges:**

The quantity charges per hundred cubic feet for metered water service shall be as follows:

Categories	Tiers	2003/2004 Rate
Residential customers (per dwelling unit)	1-20 hcf	\$1.15
	21+ hcf	\$2.42
Commercial, Industrial, & Institutional		\$2.64
Recycled Industrial Process Use		\$1.32
Recycled Sanitary Use (Inside Dual Plumbing)		\$1.32
Potable Irrigation		\$3.04
Recycled (Formerly Served by Wells)		\$0.58
Recycled (Agricultural Service)		\$0.22
For City Accounts (Recycled)		\$0.55
Recycled (All other)		\$2.44
Santa Clara County (Ed Levin Park)		\$4.07
City of Milpitas accounts (potable)		\$1.06

Categories	Tiers	2004/2005 Rate
Residential customers (per dwelling unit)	1-20 hcf	\$1.29
	21+ hcf	\$2.71
Commercial, Industrial, & Institutional		\$2.95
Recycled Industrial Process Use		\$1.48
Recycled Sanitary Use (Inside Dual Plumbing)		\$1.48
Potable Irrigation		\$3.37
Recycled (Formerly Served by Wells)		\$0.63
Recycled (Agricultural Service)		\$0.27

For City Accounts (Recycled)		\$0.55
Recycled (All other)		\$2.70
Santa Clara County (Ed Levin Park)		\$1.16
City of Milpitas accounts (potable)		\$1.15

No adjustments shall be granted to any water account holder due to variation in the days of service for any bimonthly billing period. Acceptable days of service range from 50 to 69 days per bimonthly billing period.

**Section 6.** Amendment to Section VIII-1-6.14. Title VIII, Chapter 1, Section 6.14 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.14 Bimonthly Water Meter Charges:**

**Water Meter Charges:**

The bimonthly charges for water meters shall be made on the basis of the size of the water meter (excluding Recycled Irrigation Formerly Served by Wells and Agricultural Service customers), and shall be as follows:

**a) For Residential Customers:**

<del>Water Meter Size, inches</del>	<del>Charges, \$</del>
<del>5/8</del>	<del>\$14.60</del>
<del>3/4</del>	<del>\$15.52</del>
<del>1</del>	<del>\$22.05</del>
<del>1-1/2</del>	<del>\$27.80</del>
<del>2</del>	<del>\$36.28</del>
<del>3</del>	<del>\$97.14</del>
<del>4</del>	<del>\$123.09</del>
<del>6</del>	<del>\$187.84</del>
<del>8</del>	<del>\$246.11</del>
<del>10</del>	<del>\$356.25</del>

Water Meter Size, inches	Charges, \$
5/8	\$16.34
3/4	\$17.37
1	\$24.67
1-1/2	\$31.11
2	\$40.60
3	\$108.70
4	\$137.74
6	\$210.19
8	\$275.40
10	\$398.64

- b) **For Non-Residential Customers (excluding Recycled Irrigation Formerly Served by Wells and Agricultural Service customers):**

Water Meter Size, inches	Charges, \$
5/8	\$15.41
3/4	\$16.38
1	\$23.31
1 1/2	\$29.38
2	\$38.31
3	\$102.58
4	\$129.96
6	\$198.38
8	\$259.92
10	\$376.24

Water Meter Size, inches	Charges, \$
5/8	\$17.24
3/4	\$18.33
1	\$26.08
1 1/2	\$32.88
2	\$42.87
3	\$114.79
4	\$145.43
6	\$221.99
8	\$290.85
10	\$421.01

- c) **For Recycled Irrigation Formerly Served by Wells and Agricultural Service Customers:**

\$60.00 bimonthly

**Section 7. Amendment to Section VIII-1-6.15.** Title VIII, Chapter 1, Section 6.15 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.15 Fire Service Charges:**

The bimonthly charges for fire services provided by detector check valves shall be made on the basis of the size of the detector check valve, and shall be as follows:

- a) **For Residential Customers:**

Detector Check Valve Size, inches	Charges, \$
2	\$23.35
3	\$35.07
4	\$38.96
6	\$50.68
8	\$62.34

40	\$74.04
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Detector Check Valve Size, inches	Charges, \$
2	\$26.13
3	\$39.24
4	\$43.60
6	\$56.71
8	\$69.76
10	\$82.85

**b) For All Other Customers:**

Detector Check Valve Size, inches	Charges, \$
2	\$24.69
3	\$37.04
4	\$41.15
6	\$53.53
8	\$65.83
10	\$78.16

Detector Check Valve Size, inches	Charges, \$
2	\$27.63
3	\$41.45
4	\$46.05
6	\$59.90
8	\$73.66
10	\$87.46

Water service for fire services provided by detector check valves shall be used solely for the purpose of fire protection and testing of such fire protection systems. In the event that water service provided by detector check valves is used for purposes other than such purposes, a quantity charge of \$14.75 per hundred cubic feet shall be imposed for water use that exceeds one hundred cubic feet per billing period.

**Section 8. Amendment to Section VIII-1.6.16.** Title VIII, Chapter 1, Section 6.16 of the Milpitas Municipal Code is hereby amended to read as follows:

**VIII-1-6.16 Effective Date of Water Rates:**

The water quantity charges in Section 6.13, the water meter charges in Section 6.14, and the fire service charges in Section 6.15 as established by Ordinance No. 120.41 shall become effective for utility bills issued on or after August 1, 2003 for meters read on or after July 22, 2003. The charges for construction water meter use in Section 6.05, late bill payments in Sections 6.9 and 6.10, discontinuance of service in Sections 6.10, restoration of discontinued service in 6.11, as well as the water quantity charges in Section 6.13, the water meter charges in Section 6.14, and the fire service charges in Section 6.15 as established

by Ordinance No. 120,42 shall become effective for utility bills issued on or after August 6, 2004 for meters read on or after July 26, 2004. All bills mailed thereafter shall be based upon these charges.

**Section 8. Amendment to Section VIII-1.6.17.** Title VIII, Chapter 1, Section 6.17 of the Milpitas Municipal Code is hereby amended to read as follows:

**V-III-1-6.17 Meter Maintenance**

All water meters shall be maintained, repaired, and replaced by the City. Where replacement, repair, or adjustment of any meter or appurtenances is made necessary by the purposeful acts, neglect, excessive demands, or carelessness of the owner or occupant of any premises, any expense thereby caused to the City shall be charged to and collected from the owner or occupant of the premises. There shall be a minimum charge of one-hundred-fifty dollars for each such incident.

**REGULAR**

NUMBER: 208.39

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS AMENDING TITLE VIII, CHAPTER 2, SECTIONS 6.01, 6.03, and 6.04 OF THE MILPITAS MUNICIPAL CODE, RELATING TO SEWER SERVICE CHARGES, AUTHORITY TO DISCONNECT, AND PAYMENT FOR SEWAGE SERVICES RESPECTIVELY

HISTORY: This ordinance was introduced at a meeting of the City Council of the City of Milpitas on May 4, 2004, by motion of Councilmember \_\_\_\_\_, and was adopted at a meeting of said Council on \_\_\_\_\_, upon motion of Councilmember \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
Gail Blalock, City Clerk

\_\_\_\_\_  
Jose S. Esteves, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Steve Mattas, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

Section 1. **Amendment to Section VIII-2-6.01.** SECTION VIII-2-6.01 OF THE MILPITAS MUNICIPAL CODE IS HEREBY AMENDED TO READ AS FOLLOWS:

**VIII-2-6.01 Sewer Service Charges:** The following amounts shall be assessed upon each premise maintaining a sewer connection with the City's sewage system.

1. RESIDENTIAL - Bimonthly for each dwelling unit

Category	FY 2004/05
Single Family Per Dwelling Unit	\$50.25
Multi-Family Per Dwelling Unit	\$36.48
Mobile Home Parks Per Dwelling Unit	\$22.76

2. COMMERCIAL, INDUSTRIAL AND MISCELLANEOUS PREMISES

a) Flat Rate: For non-residential accounts, there shall be a flat rate assessed every billing cycle during which normal billing takes place, regardless of the amount of sewage discharged, in the amount of \$8.48 per bimonthly period to defray billing and sewer system administration costs.

b) Quantity and Strength Charges: For each commercial, industrial, or miscellaneous premises, a charge for each one hundred cubic feet of water used per billing cycle shall be charged as follows:

Category	FY 2004/05
Motels, Hotels & Senior Citizen Housing Developments	\$1.98
General office, banks, government offices general merchandise, retail, and shopping centers; building, hardware, and gardening material facilities; amusement centers, and theaters	\$1.91
City of Milpitas	\$1.83
Service stations, repair shops, and car washes	\$1.98
Eating and drink establishments	\$3.44
Personal services – laundry, barber/beauty shops, cleaners	\$1.80
Jefferson Smurfit Corporation	\$0.54
T. Marzetti Co.	\$4.89
Prudential Overall Supply	\$2.27
Loral-Fairchild-Lockheed	\$1.60
US Filter	\$1.96
Sipex Corporation	\$1.66
Lucky Pure Water	\$0.96
Calistoga Mountain Spring Water	\$1.04
Milpitas Material	\$0.01
Union Pacific Railroad	\$3.13
Headway Technology Corporation	\$2.02
Electrical and electronics design, fabrication, assembly and storage facilities	\$1.89
Metal fabrication, machinery, and tool fabrication facilities	\$2.54
Linear Technology Corporation	\$1.82
Seagate Technology	\$1.81
Schools, colleges and churches	\$2.90
Convalescent hospitals, day care centers, and health service facilities	\$1.93
Elmwood Rehabilitation center	\$1.95

- c) City of San Jose for properties known as North McCarthy Properties \$450 bimonthly for any discharge up to 75,000 gallons per day (Maximum Flow). Excess flow charge of \$100 for each 1,000 gallons per day in excess of the Maximum Flow or part thereof.
3. Purpose of Charge: The purpose of these charges is to defray the cost of operation and maintenance of the City's facilities, the cost of sewage treatment, and the debt service for the revenue bonds to finance the City's proportionate share of capital improvements at the San Jose/Santa Clara Water Pollution Control Plant.
4. Effective Date: The sewer service charges in Section 6.01 as established by Ordinance 208.39 shall become effective for utility bills issued on or after August 6, 2004, for meters read on or after July 26, 2004. All bills mailed thereafter shall be charged these charges.

Section 2. **Amendment to Section VIII-2.6.03.** Section VIII-2-6.03 OF THE MILPITAS MUNICIPAL CODE IS HEREBY AMENDED TO READ AS FOLLOWS:

**VIII-2-6.03 Authority to Disconnect; Restoration:**

In the event of a failure to pay the charges as provided herein for sewage service, the City is authorized to disconnect sewer or water service, or both. In disconnecting such service, the City shall follow the procedures set forth in section VIII-1-6.10. Users shall be subject to the terms of VIII-1.6.10. Service may be restored pursuant to the terms of Section VIII-1.6.11.

Section 3. **Amendment to Section VIII-2.6.04.** Section VIII-2-6.04 OF THE MILPITAS MUNICIPAL CODE IS HEREBY AMENDED TO READ AS FOLLOWS:

**VIII-2-6.04 Payment for Sewage Services**

All accounts are due and payable within fifteen (15) days of the date of the bill. Accounts shall become delinquent and a late fee equal to five percent of the amount due shall be imposed if a payment has not been received by 5:00 p.m. on the due date.

**REGULAR**

**NUMBER:** 48.15

**TITLE:** AN ORDINANCE OF THE CITY OF MILPITAS AMENDING SECTION 9.  
CHAPTER 200, TITLE V OF THE MILPITAS MUNICIPAL CODE, RELATING TO  
TERMINATION OF WATER SERVICE FOR NONPAYMENT OF SOLID WASTE  
COLLECTION CHARGES AND FEES

**HISTORY:** This ordinance was introduced at a meeting of the City Council of the City of Milpitas  
on May 4, 2004, by motion of Councilmember \_\_\_\_\_, and was adopted at a  
meeting of said Council on \_\_\_\_\_, upon motion of Councilmember \_\_\_\_\_  
by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Gail Blalock, City Clerk

\_\_\_\_\_  
Jose Esteves, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Steven T. Mattas, City Attorney

**ORDAINING CLAUSE:**

**THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:**

**Amendment to Section V-200-9.91.** Title V, Chapter 200, Section 9.91 of the Milpitas Municipal Code is hereby amended to read as follows:

**V-200-9.91 Termination of Water Service for Nonpayment of Collection Charges and Fees**

The City shall be empowered to discontinue water service to any person receiving water service from City's water system for the nonpayment of any collection charges and fees established herein for the collection, transportation, removal, processing or disposal of solid waste, recyclables, or yard trimmings produced by said person or upon premises occupied by said person. In disconnecting such service, the City shall follow the procedures set forth in section VIII-1-6.10. Users shall be subject to the terms of VIII-1-6.10. Service may be restored pursuant to the terms of section VIII-1-6.11. If payment is not received by 5:00 pm of the due date, a late fee equal to 5% of the amount due shall be imposed. ~~Said service shall not be discontinued, however, unless the account of said person is more than thirty (30) days delinquent. Where service is discontinued hereunder, written notice shall be mailed by regular mail at least ten (10) days in advance of said discontinuance to the person in whose name the account is maintained.~~

~~Restoration of service which has been discontinued may be had by payment of all outstanding charges to date plus a service charge at the offices of CITY. The City Manager shall have authority to vary the strict application of this section where he or she deems necessary for the good of CITY, the protection of the public health, safety and welfare or the prevention of undue hardship to CITY customers.~~

~~Any bill rendered by CITY for any collection charges and fees established hereunder shall be considered a proper charge unless protest is made within fifteen (15) days after presentation or mailing, by First Class U.S. Mail, to the person in whose name the account is maintained at his or her address on CITY records.~~